

FIRST REGULAR SESSION

HOUSE BILL NO. 398

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RIDDLE (Sponsor), FUNDERBURK, HOUGHTON, LEARA, HANSEN, SHUMAKE, LOVE, GATSCHENBERGER, ROWLAND, BURNS, NEELY, REDMON, WEBB, HUBBARD, HURST, BARNES, CRAWFORD, GRISAMORE, STREAM, MOLENDORP, MCMANUS, BERRY, PIKE, DAVIS, HICKS, HAEFNER, KELLY (45), BURLISON, NICHOLS, HIGDON, ZERR, GOSEN, FLANIGAN, PARKINSON, MCCAHERTY, LANT, ALLEN, RUNIONS, SPENCER, KELLEY (127), WHITE, COLONA, SCHARNHORST, REIBOLDT, CONWAY (10), CONWAY (104), REMOLE, WOOD, BAHR, WALKER, PHILLIPS, BERNSKOETTER, ENGLUND, ANDERSON, AUSTIN, MORRIS, ROWDEN, FRAKER, WALTON GRAY, ELLINGTON, GARDNER, DUGGER, PACE, MILLER, PIERSON, HINSON, WILSON, RHOADS, HUMMEL, MCGAUGH, FITZWATER, RIZZO, MONTECILLO, HARRIS, MCCANN BEATTY, FRAME, ROORDA, NORR, KORMAN, JUSTUS, MIMS, DUNN, CURTIS, ENGLISH, CORNEJO, OTTO, MAY AND SMITH (85) (Co-sponsors).

1123L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 393, RSMo, by adding thereto two new sections relating to ratemaking for public utilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 393, RSMo, is amended by adding thereto two new sections, to be known as sections 393.1019 and 393.1110, to read as follows:

393.1019. 1. Notwithstanding any provisions of chapter 386 or this chapter to the contrary, beginning August 28, 2013, an electrical corporation providing electric service may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of the electrical corporation's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements and additions. The establishment of or change to the ISRS provided for in this section shall be accomplished by applying to electrical corporations the following sections or portions thereof, as if said sections or portions thereof referred to electrical corporations: all of subsection 1 of section 393.1012, except the first sentence; all of subsections 2 and 3 of section 393.1012; and all of section 393.1015, except subsection 11.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 In applying said sections or portions thereof to electrical corporations, all references in said
12 sections or portions thereof to a gas corporation shall be deemed to instead refer to an
13 electrical corporation, and the terms used in said sections or portions thereof that are
14 defined in section 393.1009, which is applicable to an ISRS for a gas corporation, shall be
15 replaced by the corresponding terms provided for in subsection 2 of this section, as
16 applicable to an ISRS for an electrical corporation.

17 2. As used in the application to electrical corporations of the sections or portions
18 thereof identified in subsection 1 of this section, the following terms shall mean:

19 (1) "Appropriate pretax revenues", the revenues necessary to produce net
20 operating income equal to:

21 (a) The electrical corporation's weighted cost of capital multiplied by the net
22 original cost of eligible infrastructure system replacements and additions, including
23 recognition of accumulated deferred income taxes and accumulated depreciation associated
24 with eligible infrastructure system replacements and additions which are included in a
25 currently effective ISRS;

26 (b) State, federal, and local income or excise taxes applicable to such income; and

27 (c) All other ISRS costs;

28 (2) "Commission", the Missouri public service commission;

29 (3) "Electrical corporation", shall have the same meaning as in subdivision (15) of
30 section 386.020;

31 (4) "Electric utility plant projects", consist of the following:

32 (a) Electric plant, as defined in subdivision (14) of section 386.020, including but
33 not limited to poles, towers, wires, conduit, transformers, substations, generating plants
34 and their components, and cyber-security, customer service, and smart grid investments,
35 whether installed as replacements for existing components that have worn out, are in a
36 deteriorated condition, or are anticipated to be in need of replacement, or whether added
37 to the electrical corporation's infrastructure;

38 (b) If not being recovered in a rate schedule authorized by subsection 2 of section
39 386.266, the costs of capital projects undertaken to comply with federal, state, or local
40 environmental or safety statutes, ordinances, or regulations; and

41 (c) The costs of facilities relocations required due to construction or improvement
42 of a highway, road, street, public way, or other public work by or on behalf of the United
43 States, this state, a political subdivision of this state, or another entity having the power of
44 eminent domain provided that the costs related to such projects have not been reimbursed
45 to the electrical corporation;

46 (5) "Eligible infrastructure system replacements and additions", electric utility
47 plant projects that:

48 (a) Do not increase revenues by directly connecting the infrastructure replacement
49 or addition to new customers;

50 (b) Are in service and used and useful;

51 (c) Were not included in the electrical corporation's rate base in its most recent
52 general rate case; and

53 (d) Replace or extend the useful life of existing infrastructure or are for additional
54 infrastructure;

55 (6) "ISRS", infrastructure system replacement surcharge;

56 (7) "ISRS costs", depreciation expense for all eligible infrastructure system
57 replacements and additions that are placed in service and became used and useful since the
58 date through which rate base additions were accounted for in developing the revenue
59 requirement in the electrical corporation's most recent general rate case or its last ISRS
60 filing offset by retirements and changes to the accumulated depreciation reserve over the
61 same time period, and return on said eligible infrastructure system replacements and
62 additions at the electrical corporation's weighted cost of capital used to determine the
63 appropriate pretax revenues, with both the depreciation and return to be deferred on the
64 electrical corporation's books between the time the eligible infrastructure system
65 replacements and additions were placed in service and the effective date of an ISRS rate
66 schedule reflecting the deferred depreciation and return;

67 (8) "ISRS revenues", revenues produced through an ISRS exclusive of revenues
68 from all other rates and charges.

69 2. The commission shall have the authority to promulgate rules for the
70 implementation of this section, but only to the extent such rules are consistent with, and
71 do not delay the implementation of, the provisions of this section. Any rule or portion of
72 a rule, as that term is defined in section 536.010 that is created under the authority
73 delegated in this section shall become effective only if it complies with and is subject to all
74 of the provisions of chapter 536, and, if applicable, section 536.028. This section and
75 chapter 536 are nonseverable and if any of the powers vested with the general assembly
76 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
77 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
78 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

393.1110. 1. Notwithstanding any provision of chapter 386 or this chapter to the
2 contrary, in all electrical corporation general rate proceedings initiated after August 28,
3 2013, the commission shall implement a mechanism to track any differences between:

(1) The noncapitalized costs used to set the revenue requirement in that rate case for the electrical corporation's or its affiliate's labor, training, benefits, including but not limited to workers compensation insurance and payroll taxes, property taxes, property insurance, and external contractors contracted with by the electrical corporation for the operation or maintenance of the electrical corporation's transmission, distribution, or generation systems; and

(2) The sum of those costs that are actually incurred by, or allocated to, the electrical corporation as reflected on its books and records in subsequent periods.

2. The electrical corporation shall defer any amounts tracked under subsection 1 of this section on its books and records as a regulatory asset or regulatory liability. In its next general rate proceeding, the regulatory asset or regulatory liability will be included in the determination of the electrical corporation's revenue requirement through an amortization over a period of three years, without any offset, reduction, or adjustment based upon consideration of any other factor or otherwise, except for a review of the prudence of the costs included in any regulatory asset as part of the general rate proceeding. Notwithstanding the foregoing, the following costs shall not be included in the electrical corporation's or its affiliate's labor or benefits components of the foregoing calculation:

(1) Any costs in a separate deferred accounting mechanism or tracker;

(2) Labor costs for the electrical corporation's or the electrical corporation parent company's officers; and

(3) That portion of the electrical corporation's labor costs that consist of incentive compensation that is dependent on the electrical corporation's or the electrical corporation's parent company's earnings.

3. In subsequent general rate proceedings occurring after a general rate proceeding where an amortization through rates of a regulatory asset or regulatory liability began, any unamortized balance shall be included in the electrical corporation's revenue requirement through a reamortization of said balance over a period of three years, also without any offset, reduction, or adjustment based upon consideration of any other factor or otherwise.

4. The commission shall have the authority to promulgate rules for the implementation of this section, but only to the extent such rules are consistent with, and do not delay the implementation of, the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly

40 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
41 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
42 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

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